

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHAD M. CARLSEN and SHASTA
CARLSEN, husband and wife, et al.,

Plaintiffs,

v.

GLOBAL CLIENT SOLUTIONS,
LLC, an Oklahoma limited liability
company; ROCKY MOUNTAIN
BANK & TRUST, a Colorado
financial institution, et. al.,

Defendants.

NO. CV-09-246-LRS

**ORDER GRANTING
MOTION TO ENJOIN
STATE COURT ACTION**

BEFORE THE COURT is the Plaintiffs' Motion To Enjoin State Court Action (ECF No. 236). The motion is heard without oral argument.

On August 23, 2012, this court entered an order (ECF No. 258) preliminarily enjoining and staying all legal proceedings in the case of *Global Client Solutions v. The Scott Group, et al.*, in the District Court of Tulsa County, State of Oklahoma, Case No. CJ-2012-04229, and enjoining and staying the Temporary Restraining Order (TRO) and Order Setting Hearing entered in the Oklahoma case. This court now concludes it has been vested with the exclusive jurisdiction to determine if Plaintiffs' counsel has improperly used or disclosed confidential information and therefore, permanently enjoins the Oklahoma proceedings.

The TRO entered in the Oklahoma action prohibited the Scott Law Group, P.S., Darrell Scott and Andrew Biviano (Class Counsel in the captioned matter) from "using and/or disclosing GLOBAL's Confidential Customer Lists . . . for any purpose other than as specifically set forth in the Settlement Agreement and

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1 Stipulated Protective Order” and “from contacting any of the individuals and/or
2 entities listed in Confidential Customer Lists other than as specifically set forth in
3 the Settlement Agreement and Stipulated Protective Order.” This TRO makes it
4 readily apparent that determination of whether Class Counsel have improperly used
5 and/or disclosed confidential information of Global Client Solutions, LLC (GCS),
6 requires an interpretation of the “Settlement Agreement,” that being the “Class
7 Action Settlement Agreement and Release” approved by this court (ECF No. 218),
8 and the “Stipulated Protective Order,” that being the “Stipulation For
9 Confidentiality” filed with this court (ECF No. 150).¹ The “Settlement
10 Agreement” provides for this court’s continuing jurisdiction over “post-judgment
11 issues.” The alleged improper use of confidential information by Class Counsel in
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13 ¹ In its paperwork filed in the Oklahoma proceedings, GCS consistently
14 refers to the “Stipulation For Confidentiality” as a “Stipulated Protective Order.”
15 While this court did not enter an order and specified the reasons for not doing so
16 (ECF No. 156), it did approve the filing of the stipulation and acknowledged the
17 parties could enter into an agreement. The fact this court did not enter an order on
18 the stipulation does not diminish its authority to adjudicate disputes related thereto.
19 This is seemingly recognized by GCS through its description of the stipulation as a
20 “Stipulated Protective Order.” The stipulation is part of the captioned proceedings
21 and its filing on October 25, 2011, was apparently intended to facilitate compliance
22 with this court’s “Order Granting Motion To Compel,” entered twelve days earlier
23 on October 13, 2011.
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1 their communications with class members is such a “post-judgment issue.” This is
2 reinforced by the fact that “Stipulation For Confidentiality” expressly specifies this
3 court retains jurisdiction, “even after termination of this lawsuit . . . to
4 adjudicate any dispute respecting improper use or disclosure of confidential
5 information.” The parties have vested this court, not the Oklahoma court, with
6 jurisdiction to determine what is, and what is not, a permissible use and/or
7 disclosure of confidential information under the terms of the “Settlement
8 Agreement” and the “Stipulation For Confidentiality.” This court will determine
9 whether, in violation of Paragraph 10 of the “Stipulation For Confidentiality,” Class
10 Counsel have used “documents or information from any documents acquired in
11 discovery . . . for any business, competitive or other purpose unrelated to the
12 conduct of this litigation.” If that has occurred, this court will remedy it through
13 appropriate directives and/or sanctions imposed pursuant to the Federal Rules of
14 Civil Procedure and/or its inherent authority.

15 For the reasons set forth above and in the “Order Granting Motion For
16 Preliminary Injunction” (ECF No. 258), enjoining the Oklahoma proceedings is
17 warranted under the All Writs Act, 28 U.S.C. § 1651, and is not precluded by the
18 Anti-Injunction Act, 28 U.S.C. § 2283. Plaintiffs’ Motion To Enjoin State Court
19 Action (ECF No. 236) is **GRANTED**. All legal proceedings in the case of *Global*
20 *Client Solutions v. The Scott Group, et al.*, in the District Court of Tulsa County,
21 State of Oklahoma, Case No. CJ-2012-04229, are **ENJOINED** and **STAYED**.
22 The Temporary Restraining Order and Order Setting Hearing entered in that case
23 are **ENJOINED, STAYED**, and without legal effect.

24 GCS states that “if this Court asserts jurisdiction here, [Class Counsels’]
25 conduct and use of the confidential information should be restrained while the
26 underlying merits of Global’s claims against [Scott Law Group] are determined.”
27 In its submissions to this court, GCS has explained why it believes Class Counsel
28 have improperly used confidential information. Class Counsel have responded and

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1 this court is already well-informed about the parties' dispute. Nevertheless, the
2 court will not consider whether a temporary restraining order or preliminary
3 injunction should be issued *sua sponte*, unless the parties stipulate that the issue
4 has been fully briefed and is ready for resolution without oral argument. GCS
5 may, of course, file any motion it deems appropriate, although the court notes that
6 class counsel indicate they are "in the process of preparing a motion to this Court
7 seeking a ruling on the very issues raised in the Oklahoma action" (ECF No. 269 at
8 p. 5) and that this motion will be filed very soon.

9 **IT IS SO ORDERED.** The District Court Executive is directed to
10 forward copies of this order to counsel of record.

11 **DATED** this 17th day of September, 2012.

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13
14 s/Lonny R. Suko
15 **LONNY R. SUKO**
16 United States District Court Judge
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